

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
J.B. NICHOLAS

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY
POLICE DEPARTMENT, POLICE OFFICER
PATRICK MURPHY, SHIELD #14452. INDIVIDUALLY
AND AS A POLICE OFFICER, POLICE
OFFICERS JOHN DOE#1-#5, IDENTITIES
RESENTLY UNKNOWN, EACH INDIVIDUALLY
AND AS POLICE OFFICERS, AND DET/SGT
JACK DOES #1 #4, IDENTITIES PRESENTLY
UNKNOWN, EACH INDIVIDUALLY AND AS
POLICE OFFICERS, LT. ROBERT BARCERO,
TAX ID # [REDACTED] 4973 INDIVIDUALLY AND AS A
POLICE OFFICER. AND THOMAS CROWE,
Defendants.

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VERIFIED COMPLAINT

Index No.: 158655/2015
Dated Purchased: 8/20/15

The plaintiff, J.B. Nicholas, by his attorneys, Emdin & Russell, LLP complaining
of the defendants, respectfully shows to this court and alleges:

1. Upon information and belief that at all times hereinafter mentioned, the
defendant, The City of New York, hereinafter referred to as "City", was, and still is, a municipal
corporation duly organized and existing under, and by virtue of, the laws of the State of New
York.
2. Upon information and belief at all times hereinafter mentioned, the defendant, the
City of New York, i.e. "City", its agents, servants and/or employees operated, maintained and
controlled the New York City Police Department, hereinafter referred to as "NYPD", including
all the police officers therein.

3. Upon information and belief, at all times hereinafter mentioned, and on the 17th day of September, 2014, Police Officer Patrick Murphy, hereinafter referred to as "Murphy" was employed as a Police Officer by the "City" and/or "NYPD" and assigned to 19th pct. his shield # was 14452,, and at all relevant times set forth below acted in the capacity of a police officer.

4. Upon information and belief at all times hereinafter mentioned and on the 17th day of September, 2014, "Murphy", was acting within the scope of his employment as a police officer and under the direction of the "City" as their agent, servant and/or employee.

5. Upon information and belief, at all times hereinafter mentioned, and on the 17th day of September, 2014, LT Robert Bracero, hereinafter referred to as "Bracero" was employed as a Police Lieutenant by the "City" and/or "NYPD" and assigned to 19th pct. and at all relevant times set forth below acted in the capacity of a police officer.

6. Upon information and belief at all times hereinafter mentioned and on the 17th day of September, 2014, "Bracero", was acting within the scope of his employment as a police officer and under the direction of the "City" as their agent, servant and/or employee

7. Upon information and belief, at all times hereinafter mentioned, and on the 17th day of September, 2014, Police Officers John Does #1-#5, were employed as Police Officers by the "City" and/or "NYPD" and upon information and belief assigned to the 19th pct. Their identities are presently unknown. At all relevant times set forth below, they individually and collectively acted in the capacity of a police officer, and within the scope of their employment. .

8. Upon information and belief, at all times hereinafter mentioned, and on the 17th day of September, 2014, Det./Sgt. Jack Does #1-#4, were employed as Police Officers by the "City" and/or "NYPD" and upon information and belief assigned to the 19th pct. Their identities

are presently unknown. At all relevant times set forth below, they individually and collectively acted in the capacity of a police officer, and within the scope of their employment. .

9. Upon information and belief, at all times hereinafter mentioned, and on the 17th day of September, 2014, Thomas Crowe, was an individual who resided in the State of New York, County of Nassau, and upon information and belief was employed by the National Football League in the capacity of security officer/ security expert and/or driver and/or bodyguard to NFL Commissioner Roger Goodell.

10. Upon information and belief, Thomas Crowe prior to September 17, 2014, worked for the City of New York and/or the New York City Police Department as a Police Detective.

11. Upon information and belief on or before September 17, 2014, one or more police officers among Murphy, Bracero, John Does #1 - #5 and Jack Does #1 -#4, knew defendant Thomas Crowe as a former police officer/ Detective with the NYPD.

12. Upon information and belief, at all times hereinafter mentioned, and on the 17th day of September, 2014, defendant Thomas Crowe identified himself as a former police officer/detective with the NYPD, to one or more of the defendants, i.e. Murphy, Bracero, John Does #1-#5, and/or Jack Does #1-#4.

13. At all relevant times hereinafter mentioned, and on the 17th day of September, 2014, the plaintiff, JB Nicholas, hereinafter referred to as "Nicholas" was a resident of the State of New York, County of Kings. The plaintiff, at all relevant times set forth in this Complaint, was employed as a freelance photographer on assignment for the Daily News and credentialed by the New York City Police Department.

14. Collectively Murphy, Bracero, John Does #1-#5 and Jack Does #1-#4 will hereafter be referred to as the “officers”.

15. Upon information and belief, on September 17, 2014 the “officers”, individually and/or collectively, were acting under and required to follow the New York City Police Patrol Guidelines.

16. That on September 17, 2014, at approximately 6:00 p.m. the plaintiff was on assignment from the New York Daily News to photograph NFL Commissioner Roger Goodell.

17. At or around 6:00 p.m. on September 17, 2014, a dark colored SUV left NFL headquarters in New York City, New York.

18. Believing that the aforementioned vehicle contained Commissioner Goodell, Nicholas followed the car on his bicycle.

19. Said vehicle was operated by defendant Crowe.

20. The SUV headed north on Park Avenue in New York City with the plaintiff following it at a safe distance.

21. At one point the plaintiff’s bicycle passed the SUV. At around 87th or 88th Street and Park Avenue, the SUV pulled up next to the plaintiff and proceeded to turn on his windshield wipers to wet the plaintiff. Crowe ran over the plaintiff’s foot with his vehicle as he passed the plaintiff.

22. At or near the intersection of 93rd Street and Park Avenue, New York, NY, hereinafter referred to as “the location” the plaintiff pulled up on the left side of Crowe’s vehicle, at which point Crowe, purposely and intentionally, made a sharp left with his vehicle, hitting the plaintiff.

23. Crowe jumped out of the vehicle, screaming "I'm a cop, you're under arrest".

24. Crowe grabbed the plaintiff, attempting to tackle him to the ground.

25. The plaintiff held Crowe off long enough to call his employer, and then attempted to sit down on the divider/median on Park Avenue.

26. It was at this point that Crowe tackled the plaintiff backwards, placing a forearm into the plaintiff's neck and pinning him to the ground, choking the plaintiff.

27. The plaintiff's screams that "you're choking me" were ignored by Crowe.

28. Eventually police arrived on the scene, including upon information and belief, Murphy, Bracero, and the John and Jack Does.

29. Numerous civilians who witnessed Crowe's conduct remained on the scene.

30. Instead of impartially investigating the incident and/ or arresting Crowe, the officer(s) immediately placed the plaintiff in handcuffs, ignoring the information provided by the eyewitnesses that Crowe was the aggressor.

31. Upon information and belief one or more of the "officers" knew Crowe as a former police officer and gave him preferential treatment, purposely ignoring all physical and verbal evidence that Crowe committed one or more criminal offenses against the plaintiff.

32. Upon information and belief one male witness informed the police that Crowe exited his vehicle very aggressively, shouting "you're under arrest, I'm a policeman"

33. Crowe was not, at all relevant times herein, a policeman.

34. Upon information and belief that same witness informed police personnel that he saw Crowe pull the plaintiff off his bicycle, wrestle him to the ground, punch the plaintiff in the face, and jammed his forearm to the plaintiff's neck.

35. Upon information and belief the defendant police officers were also apprised of a 911 call to the police where it was stated that “two male white. One male is wearing a black suit and came from a black Cadillac SUV. Other man was on a bicycle. They were fighting. The male on the bicycle is wearing beige shorts and white shirt. And right now the guy in the suit is hitting him Oh my god, he’s going to kill him. No weapons, with his hands, he’s strangling him”.

36. Upon information and belief a NYPD detective, identity presently unknown, spoke with the 911 caller, who informed the Detective in sum and substance, that he/she saw the SUV pull up at the corner on an angle and block the bike rider. That the driver of the SUV got out and grabbed the bike rider (the plaintiff) and dragged him to the median of Park Avenue, held him down and strangled him.

37. Upon information and belief additional eyewitnesses gave similar accounts to the police on the scene.

38. Nevertheless, the officers on the scene handcuffed and arrested the plaintiff, and never placed Crowe in handcuffs, never took him into custody or arrested him.

39. Upon information and belief Crowe falsely claimed that the plaintiff assaulted him and damaged his motor vehicle.

40. Upon information and belief Crowe and the named defendant officers filled out police reports containing false information that would be used to criminally prosecute the plaintiff for crimes that he did not commit.

41. That there was no physical evidence or eyewitnesses that corroborated Crowe’s claims of being assaulted or that the plaintiff committed criminal mischief.

42. That there was both physical evidence and corroborating eyewitnesses, proving

that the plaintiff was the victim of a crime at the hands of Crowe.

43. The plaintiff demanded that Crowe be arrested, however the defendants refused to arrest Crowe.

44. Instead only the plaintiff was handcuffed, arrested and transported to a police precinct.

45. Crowe drove away from the scene of the incident in his SUV.

46. At the precinct officers removed Nicholas' belt and shoe laces and placed him in a locked holding cell.

47. The plaintiff who sustained visible physical injuries, requested medical attention and was transported to a hospital in leg shackles and handcuffs.

48. The plaintiff was handcuffed to a bed inside the hospital, until he was transported back to the precinct.

49. Once back at the precinct, the plaintiff was interviewed by two officers and gave a written statement of what had occurred. One of the Detectives ripped up the statement.

50. Upon information and belief Murphy is listed as the plaintiff's arresting officer.

51. Upon information and belief Murphy filled out false reports of the incident in question and failed to include the eyewitness statements on his reports.

52. Upon information and belief, Murphy and/or Crowe provided false statements to the New York County District Attorney's Office for use in the prosecution of the plaintiff.

53. Upon information and belief at or prior to arraignment of the plaintiff, the defendant officers failed to apprise the New York County District Attorney's Office of the witness statements exonerating the plaintiff.

54. Murphy signed a criminal court complaint charging the plaintiff with having committed the crimes of assault in the second degree, a felony, assault in the third degree, a misdemeanor, and criminal mischief in the third degree, a misdemeanor.

55. Upon information and belief Crowe provided the factual information used to prosecute, the plaintiff as contained in docket number 2014NY071565 filed in Criminal Court City of New York, County of New York.

56. The statements contained in said complaint, as provided by Crowe were false, and made with the intent to prosecute the plaintiff for crimes that he did not commit.

57. That plaintiff was released from custody at arraignment on the evening of September 18, 2014.

58. That as a result of the false arrest and false charges the plaintiff was required to obtain legal counsel to defend himself.

59. That the plaintiff made numerous court appearances on the criminal charges.

60. That all criminal charges were dismissed upon application of the New York County District Attorney's Office.

61. That notice of the plaintiff's claim and notice of intention to sue for damages, as well as a Supplemental and Amended Notice of Claim the nature of the claim and the date of, the time when, the place where and the manner in which the claim arose were duly served upon the comptroller of the defendant "City".

62. That a 50(h) hearing was held on July 21, 2015.

63. That more than 30 days have elapsed since the notice of claim and intention to sue has been served upon the defendants and the said defendants have neglected or refused to make

any adjustment or payment thereof.

64. That this action is commenced within one year and 90 days after the cause of action arose.

65. It is hereby alleged, pursuant to CPLR 1603, that this action is exempt from the operation of CPLR 1601 from the operation of CPLR 1601, by reason of one or more of the exemptions provided in CPLR 1602.

AS AND FOR A FIRST CAUSE OF
ACTION ON BEHALF OF PLAINTIFF
FOR FALSE IMPRISONMENT AGAINST ALL PLAINTIFFS

66. The Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "65" with the same force and effect as if more fully and at length set forth herein.

67. That beginning on or about the 17th day of September, 2014, at or about approximately 6:00 p.m. at or near the "location" until the plaintiff's arraignment on September 18, 2014, the defendants, their agents, servants and/or employees detained and imprisoned plaintiff without any just cause or grounds.

68. That defendant Crowe at all relevant times hereunder acted as a private citizen and as a peace/police officer, and participated in the plaintiff's arrest and imprisonment.

69. That said imprisonment was caused by the defendants, their agents, servants, and/or employees, without any warrant or other legal process and without authority of the law and without any reasonable grounds, or cause to believe that the plaintiff was guilty of any crimes for which he was charged.

70. The plaintiff was wholly innocent of all criminal charges and did not contribute in any way or manner to his arrest and imprisonment by the defendants, their agents, servants and/or employees, and was forced to submit to the aforesaid arrest and imprisonment entirely against his will.

71. That the defendants, their agents, servants and/or employees, as set forth above, intended to confine the plaintiff; the plaintiff was conscious of the confinement; he did not consent to the confinement; and the confinement was not otherwise privileged.

72. That the plaintiff was confined against his will until he was arraigned in the evening hours of September 18, 2014 when he was released upon his own recognizance.

73. That by reason of the aforesaid false imprisonment and detention, plaintiff was subjected to great indignity, humiliation, loss of work and loss of freedom and the said plaintiff has been otherwise damaged.

74. That by reason of the aforesaid, the plaintiff has been damaged in an amount exceeding the jurisdictional limits of the lower courts.

AS AND FOR A SECOND CAUSE OF
ACTION ON BEHALF OF PLAINTIFF
FOR FALSE ARREST AGAINST ALL DEFENDANTS

75. The plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "74" with the same force and effect as if more fully and at length set forth herein.

76. That beginning on or about the 17th day of September, 2014, at or about approximately 6:00 p.m. at the "location", the plaintiff was handcuffed and placed under arrest

by the defendants, their agents, servants and/or employees without any just cause or grounds, and held against his will under full force of arms..

77. That said arrest was caused by the defendants, their agents, servants, and/or employees, without any warrant or other legal process and without authority of the law and without any reasonable grounds, and based on an illegal stop and search of the plaintiff, when the defendants lacked cause to believe that the plaintiff committed, or was about to commit a crime or was guilty of any crimes.

78. The plaintiff was wholly innocent of all criminal charges and did not contribute in any way or manner to his arrest and imprisonment by the defendants, their agents, servants and/or employees, and was forced to submit to the aforesaid arrest and imprisonment entirely against his will.

79. That the defendants, their agents, servants and/or employees, as set forth above, intended to seize, search, and arrest the plaintiff; that the plaintiff was conscious of the arrest and confinement; the Plaintiff did not consent to the arrest and confinement; and the arrest was not otherwise privileged.

80. That by reason of the aforesaid false arrest, plaintiff was subjected to great indignity, humiliation, stress and loss of freedom and the said plaintiff has been otherwise damaged.

81. That by reason of the aforesaid, the plaintiff has been damaged in an amount exceeding the jurisdictional limits of the lower courts.

AS AND FOR A THIRD CAUSE OF
ACTION ON BEHALF OF THE PLAINTIFF
FOR ASSAULT AND BATTERY AGAINST THE CITY
OF NEW YORK, MURPHY, BARCERO, PO JOHN DOES #1-#5 AND SGT./DET JACK
DOES #1-#4

82. The Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs marked "1" through "81" with the same force and affect as if more fully and at length set forth herein.

83. The plaintiff was seized, searched, held, handcuffed, shackled and fingerprinted and photographed by the defendant, "City", and the "NYPD" its agents/servants, and/or employees, including one or more of the defendants Murphy, Bracero and the John and Jack Does.

84. That all said contact was committed without the plaintiff's permission or consent.

85. That all said contact was unlawful and without privilege.

86. That all contact committed by defendants through their agents, servants, and/or employees, including one or more of the defendants "Murphy", "Bracero " and/or "the John and Jack Does", was offensive to plaintiff and caused him to fear further contact and imminent harm, and caused plaintiff to sustain physical and/or psychological injury.

87. That the above acts committed by the defendants constituted an assault and/or battery of the plaintiff.

88. That by reason of the aforesaid, the plaintiff, has been damaged in a sum exceeding the jurisdictional limits of lower courts.

**AS AND FOR A FOURTH CAUSE OF
ACTION ON BEHALF OF THE PLAINTIFF
FOR ASSAULT AND BATTERY AGAINST CROWE**

89. The Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs marked "1" through "88" with the same force and affect as if more fully and at length set forth herein.

90. The plaintiff was struck, hit, had his foot run over, seized, choked, thrown to the ground, restrained, struck and held by the defendant, "Crowe".

91. That all said contact was committed without the plaintiff's permission or consent.

92. That all said contact was unlawful and without privilege.

93. That all said conduct was excessive or unjustified.

94. That all contact committed by defendant Crowe was offensive to plaintiff and caused him to fear further contact and imminent harm, and caused plaintiff to sustain physical and/or psychological injury.

95. That the above acts committed by defendant Crowe constituted an assault and/or battery of the plaintiff.

96. That by reason of the aforesaid, the plaintiff has been damaged in a sum exceeding the jurisdictional limits of lower courts.

**AS AND FOR A FIFTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF FOR MALICIOUS PROSECUTION AGAINST ALL
NAMED DEFENDANTS**

97. The Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs marked "1" through "96" with the same force and affect as if more fully and at

length set forth herein.

98. The plaintiff was maliciously prosecuted by the defendants for crimes that they knew, or should have known that he was innocent of.

99. That the defendants, individually and/or collectively, conspired to falsely arrest the plaintiff, execute false reports, sign false affidavits and provide false statements with the intent of criminally prosecuting the plaintiff.

100. That the plaintiff was at all relevant times hereunder innocent of all charges filed against him.

101. That the plaintiff was compelled to hire legal counsel

102. That the plaintiff was compelled to attend legal proceedings as a result of said charges.

103. That all criminal charges against the plaintiff were dismissed on December 1, 2014.

104. That by reason of the aforesaid, the plaintiff has been damaged in a sum exceeding the jurisdictional limits of lower courts.

AS AND FOR A SIXTH CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF FOR NEGLIGENCE
AGAINST THE CITY OF NEW YORK, MURPHY, BARCERO AND/OR JOHN AND
JACK DOES

105. The Plaintiff repeats, reiterates and re-alleges each and every allegation contained in paragraphs marked "1" through "104" with the same force and affect as if more fully and at length set forth herein.

106. That the defendant, "City" was careless and reckless in hiring, retaining, training,

assigning, failing to retrain, in monitoring, supervising and promoting as and for its employees, defendants "Bracero", "Murphy", "Jack Does #1-4" and "John Does #1-#5", in that said employee(s) lacked the experience, deportment and ability to be employed by the defendants in the capacity in which they were utilized, i.e. as police officers; in that the defendant, "City" failed to exercise due care and caution in its hiring and promoting practices; in that the defendant "City" failed to investigate the above named employee's backgrounds; in that the City failed to properly train, supervise and monitor the 'officers; and in that that the defendant City was negligent in disciplining, retraining and retaining the named defendant officers;' and in that the defendants, their agents, servants and employees, were otherwise careless, negligent and reckless.

107. That the defendant City encouraged and/or tolerated a custom or policy, or were deliberately indifferent thereto, where employees, i.e. police officer, or former police officers were accorded preferential treatment when complaints were made against them.

108. That said preferential treatment included "looking the other way" in the face of evidence or criminality by the officer or ex-officer, i.e. Crowe.

109. That said negligence or deliberate indifference, was the proximate cause of the plaintiff's arrest and/or malicious prosecution.

110 That the 'officers', the while acting within the scope of their employment, were negligent in that each failed to use such care in the performance of his police duties as a reasonably prudent and careful police officer would have used under similar circumstances; in that each was negligent, careless and reckless in the manner in which they investigated and/or performed his police dates; in that they failed to intervene or mitigate police misconduct; in that

the police department permitted or condoned the false arrest, and/or false documentation submitted by these and other officers; in that they failed to secure prompt and necessary medical attention; and in that they failed to timely notify the New York County District Attorney's Office of exculpatory information; and in that the defendants, their agents, servants and/or employees were otherwise careless, reckless and negligent.

111. That by reason of the aforesaid, the plaintiff, was imprisoned, lost his freedom, and stressed, and he was thereby damaged.

112. That by reason of the aforesaid, the plaintiff has been damaged in a sum exceeding the jurisdictional limits of the lower court.

AS AND FOR A SEVENTH CAUSE OF ACTION:
FOR VIOLATIONS OF PERSONAL CONSTITUTIONAL RIGHTS UNDER
42 U.S.C. 1983 AGAINST CROWE

113. That plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "112" with the same force and effect as if more fully and at length set forth herein.

114. That at all times set forth above and hereinafter mentioned, the defendant "Crowe" acted as a police/peace officer in making a seizure/arrest of the plaintiff.

115. That on September 17, 2014 Crowe identified himself as a police officer to the plaintiff.

116. That on September 17, 2014 Crowe seized the plaintiff, and using physical force arrested the plaintiff without a warrant or probable cause.

117. That on September 17, 2014, defendant Crowe used excessive force in seizing and

arresting the plaintiff causing the plaintiff bodily injury and emotional harm.

118. That the defendant, Crowe, upon information and belief, made false statements to police personnel, and/or conspired with them to falsely charge the plaintiff with crimes he did not commit and to avoid arrest himself.

119. That as a result of defendant Crowe's actions the plaintiff was assaulted, battered, falsely imprisoned, falsely arrested, subjected to excessive force, injured and maliciously prosecuted, violating the plaintiff's civil rights.

120. That in engaging in said conduct the defendant Crowe was operating under the color of law, and engaged in the illegal conduct set forth this complaint to the injury of the plaintiff, and deprived him of the rights, privileges and immunities secured to him by the Fourth, and Fourteenth Amendments to the Constitution of the United States and the laws of the United States, and State of New York and U.S.C. Section 1983 and 1986.

121. That the unlawful and illegal conduct of defendant Crowe deprived plaintiff of the following rights, privileges and immunities secured to him by the Constitution of the United States and of the State of New York:

- a) The right of plaintiff to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments to the Constitution of the United States; and,
- b) The right to Due Process Law.
- c) The right to equal protection under the law.
- d) The right not to be subjected to cruel and unusual punishment

122. That by reason of the aforesaid violations, use of force, use of arbitrary,

excessive and sadistic force, seizure of plaintiff's person, his false arrest and false imprisonment, assault and battery, falsifying evidence, excessive use of force and malicious prosecution "Crowe" violated plaintiff's rights and privileges as provided to him in the Constitution of the United States of America, and provided to him in the Constitution of the State of New York, and laws thereto, "the officers" and violated 42 U.S.C. §1983.

123. That as a direct proximate result of "Crowe" actions plaintiff was physically and emotionally injured, lost job assignments and was subjected to great indignities and humiliation, and pain and distress of mind and body and was humiliated and defamed thereby.

124. That by reason of the aforesaid, plaintiff was injured in mind and body, still suffers and upon information and belief, will continue to suffer great physical and mental pain.

125. That by reason of the aforesaid, the plaintiff has been damaged in a sum of exceeding the jurisdiction of the lower courts, and seeks compensatory damages, plus, punitive damages, costs, attorneys fees, expert fees, as set forth and provided by 42 U.S.C. Sections 1983 and 1988, and such other relief as to the court may seem just and proper.

AS AND FOR AN EIGHTH CAUSE OF ACTION:
FOR VIOLATIONS OF PERSONAL CONSTITUTIONAL RIGHTS UNDER
42 U.S.C. 1983 AGAINST BARCERO AND MURPHY

126. That plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "125" with the same force and effect as if more fully and at length set forth herein.

127. That at all times set forth above and hereinafter mentioned, the defendants "Murphy" and "Bracero" acted as a police officers in making a seizure/arrest of the plaintiff.

128. That on September 17, 2014 the plaintiff identified himself as a victim of a crime at the hands of Crowe, to, upon information and belief Murphy and/or Bracero.

129. That upon information and belief on September 17, 2014 independent eyewitnesses informed Murphy and/or Bracero that the plaintiff did not commit any crime but was assaulted by Crowe.

130. Crowe was a former NYPD Detective and identified himself as such to Murphy and/or Bracero.

131. Murphy arrested the plaintiff with the approval of Bracero.

132. There was no arrest warrant for the plaintiff.

133. Crowe was not arrested or taken into custody.

134. The plaintiff was seized, handcuffed, later shackled and imprisoned.

135. Police reports failed to include exculpatory evidence and statements of witnesses.

136. Murphy signed a false criminal court complaint used to prosecute the plaintiff.

137. That as a result of defendant actions the plaintiff was seized, arrested, imprisoned, searched and maliciously prosecuted, falsely imprisoned, violating the plaintiff's civil rights.

138. That in engaging in said conduct the defendants Murphy and Bracero were operating under the color of law, and engaged in the illegal conduct set forth this complaint to the injury of the plaintiff, and deprived him of the rights, privileges and immunities secured to him by the Fourth, and Fourteenth Amendments to the Constitution of the United States and the laws of the United States, and State of New York and U.S.C. Section 1983 and 1986.

139. That the unlawful and illegal conduct of defendants deprived plaintiff of the following rights, privileges and immunities secured to him by the Constitution of the United

States and of the State of New York:

b) The right of plaintiff to be secure in his person and effects against unreasonable search and seizure under the Fourth and Fourteenth Amendments to the Constitution of the United States; and,

b) The right to Due Process of Law.

c) The right to equal protection under the law.

140. That by reason of the aforesaid violations, use of force, seizure of plaintiff's person, his false arrest and false imprisonment, assault and battery, falsifying evidence, and malicious prosecution "Crowe" violated plaintiff's rights and privileges as provided to him in the Constitution of the United States of America, and provided to him in the Constitution of the State of New York, and laws thereto, "the officers" and violated 42 U.S.C. §1983.

141. That as a direct proximate result of "Murphy and Bracero's" actions plaintiff was physically and emotionally injured, lost job assignments and was subjected to great indignities and humiliation, and pain and distress of mind and body and was humiliated and defamed thereby.

142. That by reason of the aforesaid, plaintiff was injured in mind and body, still suffers and upon information and belief, will continue to suffer great physical and mental pain,.

143. That by reason of the aforesaid, the plaintiff has been damaged in a sum of exceeding the jurisdiction of the lower courts, and seeks compensatory damages, plus, punitive damages, costs, attorneys fees, expert fees, as set forth and provided by 42 U.S.C. Sections 1983 and 1988, and such other relief as to the court may seem just and proper.

AS AND FOR A NINTH CAUSE OF ACTION:
ALLEGING VIOLATION OF CONSTITUTIONAL RIGHTS
UNDER 42 U.S.C. SECTION 1985, BY CROWE, POLICE OFFICER MURPHY AND LT
BARCERO IN THEIR INDIVIDUAL CAPACITIES
AND AS AGENTS OF THE CITY OF NEW YORK, THE PLAINTIFF ALLEGES:

144. That plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "143" with the same force and effect as if more fully and at length set forth herein.

145. That at all times hereinafter mentioned, the defendant "Crow" was acting as a peace officer and/or upon information and belief licensed security officer, and was acting under the color of his official capacity.

146. That at all times hereinafter mentioned, the defendant "Murphy" was employed by the defendant The City of New York and/or The New York City Police Department and was acting under the color of his official capacity and his acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the City of New York.

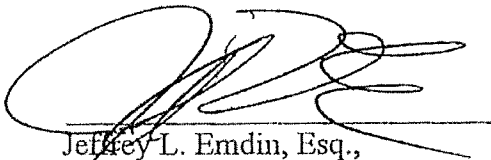
147. That at all times hereinafter mentioned, the defendant "Bracero" was employed by the defendant The City of New York and/or The New York City Police Department and was acting under the color of his official capacity and his acts were performed under the color of the policies, statutes, ordinances, rules and regulations of the City of New York.

148. That during all times hereinafter mentioned, the defendants "Murphy and/or Bracero", individually, and/or collectively acted under color and pretense of law, to wit: under color of the statutes, ordinances, regulations, customs and usages of The City of New York and/or New York City Police Department, and conspired to engage in the illegal conduct set forth this complaint to the injury of the plaintiff, and deprived him of the rights, privileges and

and 1988, and such other relief as to the court may seem just and proper.

WHEREFORE, the plaintiffs demand judgment against the defendants in a sum to be determined by the trier of fact, plus costs, attorney's fees, punitive damages (on the seventh through ninth causes of action) and such other and further relief as to the Court seems just and proper on the First through the Ninth causes of action.

DATED: 25 New York, New York
August 20 2015



Jeffrey L. Emdin, Esq.,
Emdin & Russell, LLP.
Attorneys for the plaintiff
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New York, New York 10018
(212) 683-3995

ATTORNEY'S VERIFICATION

The undersigned, an attorney admitted to practice in the Courts of the State of New York certifies as follows:


That I am an attorney associated with the law firm of Jeffrey L. Emdin, Esq., the attorneys of record for the Plaintiff in the within action; that I have read the foregoing Summons and Complaint and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters, I believe them to be true.

The undersigned further states that the reason this Summons and Complaint is made by me and not by the Plaintiff is that the Plaintiff do not reside within the county in which my office is located.

The grounds of my belief as to all matters stated upon my knowledge are my interviews with the Plaintiff and a reading of the documents in my case file.

The undersigned affirms that the foregoing statements are true, under the penalty of perjury.

Dated: New York, New York
August 26, 2015



By: Jeffrey L. Emdin, Esq.

J.B. NICHOLAS,

Plaintiff,

-against-

THE CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, POLICE OFFICER PATRICK MURPHY, SHIELD #14452, INDIVIDUALLY AND AS A POLICE OFFICER, POLICE OFFICERS JOHN DOE#1-#5, IDENTITIES PRESENTLY UNKNOWN, EACH INDIVIDUALLY AND AS POLICE OFFICERS, AND DET/SGT JACK DOES #1-#4, IDENTITIES PRESENTLY UNKNOWN, EACH INDIVIDUALLY AND AS POLICE OFFICERS, LT. ROBERT BRACERO, TAX ID # [REDACTED] 4973 INDIVIDUALLY AND AS A POLICE OFFICER, AND THOMAS CROWE

Defendant.

SUMMONS WITH VERIFIED COMPLAINT

LAW OFFICES OF EMDIN & RUSSELL, LLP

Attorneys for Plaintiff

499 Seventh Avenue, Floor 12N

New York, NY 10018

(212) 683-3995

To: Corporation Counsel
100 Church Street
New York, NY. 10007

PO Patrick Murphy
Shield # 14452
c/o 19th pct.
153 E 67th St
New York, NY 10065

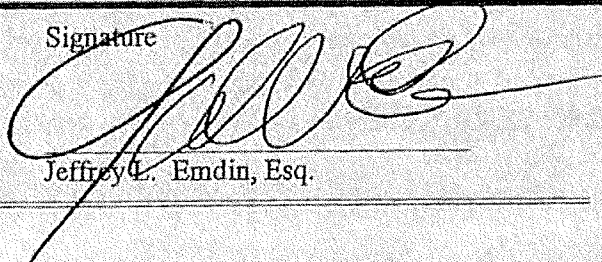
Lt Robert Bracero
Tax ID # [REDACTED] 4973
c/o 19th pct.
153 E 67th St
New York, NY 10065

Thomas Crowe

Pursuant to 22 NYCRR 130-1.0, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: August 20, 2015

Signature



Jeffrey L. Emdin, Esq.

PLEASE TAKE NOTICE

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that a of which the within is a true copy will be presented for settlement to the HON. one of the judges of the, on